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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/940,924  | 08/29/2001  | Masaharu Nishida     | NIP-241             | 5829             |
| 24956   | 7590        | 12/23/2004           | EXAMINER            |                  |
| MATTINGLY, STANGER & MALUR, P.C.<br>1800 DIAGONAL ROAD<br>SUITE 370<br>ALEXANDRIA, VA 22314 |             |                      | JASMIN, LYNDA C     |                  |
|   |             | ART UNIT             |                     | PAPER NUMBER     |
|   |             |                      |                     | 3627             |

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                          |
|------------------------------|------------------------|--------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>      |
|                              | 09/940,924             | NISHIDA ET AL. <i>jm</i> |
|                              | <b>Examiner</b>        | <b>Art Unit</b>          |
|                              | Lynda Jasmin           | 3627                     |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 17 September 2004.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-12 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner. .  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/17/2004.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_ .

**DETAILED ACTION**

1. Amendment received on September 17, 2004 has been acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, and 9-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Salvo et al. (6,341,271)

Salvo discloses a method and system of managing consumer goods (via an inventory management) used in an analyzer (via an indicator that includes a volume analyzer) with the steps of: monitoring consumption status of consumer goods consumed by an analyzer and receiving the information on consumption status (via an indicator for monitoring and reporting the level of current inventory), analyzing the consumption status of consumer goods used in an analyzer (via control unit 114) according to consumer goods supplier and according to consumer goods that the consumer goods suppliers deal in (via a vendor-managed inventor system), and transmitting the analyzed consumer goods consumption status or supply management

information based on the consumer goods consumption status to a management unit or consumer goods suppliers' supply management units (col. 7, lines 39-54).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salvo et al.

Although Salvo recites maintaining associated inventory costs, such as, billing costs, at a minimum, Salvo does not explicitly disclose requesting payment from an analyzer administrator, consumer goods suppliers or a consumer goods vendor for use of the information being monitored. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have including the means for requesting payment in order to consummate or fulfill any purchase transaction.

As per claims 4-8, Salvo discloses all the structural elements of the claimed invention except for managing reagent used. However, it would have been an obvious matter in the art to modify the managing of consumer goods as taught by Salvo et al. since such a modification would have involved a mere change in the type of goods or component being analyzed.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kudoh et al. discloses the method of managing and ordering supplies based on sensing depletion of items.

McGrady et al. discloses the method of monitoring items and indicate inventory status information.

Greves et al. discloses an inventory management system that monitors the quantity of supplies in a storage facility.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Lynda Jasmin* 12/21/04  
Lynda Jasmin  
Primary Examiner  
Art Unit 3627

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